

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: MCKINSEY & CO., INC.
NATIONAL PRESCRIPTION OPIATE
CONSULTANT LITIGATION

This Document Relates to:

ALL SCHOOL DISTRICT ACTIONS

Case No. 3:21-md-02996-CRB (SK)

~~[PROPOSED]~~ AMENDED ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS SETTLEMENT AND
DIRECTION OF NOTICE UNDER
FEDERAL RULE OF CIVIL PROCEDURE
23(e)

Judge: The Honorable Charles R. Breyer

1 Before the Court is Public School District Plaintiffs' Unopposed Motion for Preliminary
2 Approval of Class Action Settlement.

3 WHEREAS, a proposed Class Action Settlement Agreement (the "Settlement") has been
4 reached between Court-appointed MDL Lead Counsel and the Plaintiffs' Steering Committee
5 ("PSC") for Public School Districts, on behalf of a proposed Settlement Class of Public School
6 Districts, that resolves certain claims against Defendants pertaining to McKinsey's consulting to
7 clients regarding opioids and contribution to the opioid epidemic;

8 WHEREAS, the Court, for purposes of this Order, adopts all defined terms as set forth in
9 the Public School District Settlement;

10 WHEREAS, this matter has come before the Court pursuant to School District Plaintiffs'
11 Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion");

12 WHEREAS, Defendants do not oppose the Court's entry of the proposed Preliminary
13 Approval Order;

14 WHEREAS, the Court finds it has jurisdiction over the Action and each of the parties for
15 purposes of Settlement as asserts jurisdiction over the Settlement Class Representatives for
16 purposes of considering and effectuating this Settlement;

17 WHEREAS, this Court has presided over and managed these MDL proceedings since the
18 JPML centralized the actions before this Court, *In re McKinsey & Co., Inc., Nat'l Prescription*
19 *Opiate Consultant Litig.*, 543 F. Supp. 3d 1377 (J.P.M.L. 2021); and

20 WHEREAS, this Court has considered all of the presentations and submissions related to
21 the Motion, as well as the facts, contentions, claims, and defenses as they have developed in these
22 proceedings, and is otherwise fully advised of all relevant facts in connection therewith;

23 NOW, THEREFORE, IT IS HEREBY ORDERED:

24 **I. Preliminary Approval Of Class Action Settlement**

25 1. The proposed Settlement appears to be the product of intensive, thorough, serious,
26 informed, and non-collusive negotiations; has no obvious deficiencies; does not improperly grant
27 preferential treatment to the Settlement Class Representatives or segments of the Class; and
28

1 appears to be fair, reasonable, and adequate, such that notice of the Settlement should be directed
2 to Class Members and a Final Approval Hearing should be set.

3 2. Accordingly, the Motion is GRANTED.

4 **II. Class Definition, Class Representatives, And Class Counsel**

5 3. “Class” or “Settlement Class” includes all elementary, middle, and secondary
6 public School Districts in the United States, except those in Indiana, American Samoa, the
7 Commonwealth of Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin
8 Islands. The Class shall specifically include but not be limited to the public School Districts
9 listed on Schedule A and the litigating School Districts listed on Schedule B.

10 4. Cyrus Mehri, Wayne Hogan, and Neil Henrichsen are hereby appointed as Interim
11 Settlement Class Counsel under Rule 23(g)(3) (“Interim Class Counsel”). Interim Class Counsel
12 and Defendants are authorized to take, without further Court approval, all necessary and
13 appropriate steps to implement the Settlement, including the approved notice program.

14 5. The following School Districts are appointed as Class Representatives: Putnam
15 County School District in Florida; Jefferson, Martin, Estill, Larue, Breahitt, Fayette, and Bullitt
16 County Public Schools in Kentucky; Regional School Units of 34 and 68 in Maine ; Southwestern
17 Central and Rochester City School District in New York; and Hamblen and Hancock County
18 Boards of Education in Tennessee .

19 **III. Preliminary Findings**

20 6. The Court is thoroughly familiar with the standards applicable to certification of a
21 settlement class. *See, e.g., In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556-67 (9th Cir.
22 2019) (detailing the standard for certifying a settlement class); *see also In re Volkswagen “Clean*
23 *Diesel” Mktg., Sales Pracs., & Prod. Liab. Litig.*, No. MDL 2672 CRB (JSC), ECF 6764 (N.D.
24 Cal. Oct. 4, 2019) (Audi CO2 cases).

25 7. Applying these standards, the Court finds it will likely be able to approve, under
26 Rule 23(e)(2), the proposed Settlement Class as defined above because the Class and its
27 representatives likely meet all relevant requirements of Rules 23(a)-(c).
28

IV. Notice To Class Members

8. The Court is also familiar with evolving methods of class notice. As applied here, the Court finds the content, format, and method of disseminating Notice – set forth in the Motion, the Declarations of Cyrus Mehri and Cameron Azari in support of the Motion, and the Settlement Agreement and Release – satisfy Rule 23(c)(2) and contemporary notice standards. The Court approves the notice program and directs that such notice be disseminated in the manner set forth in the proposed Settlement and the Declarations of Cyrus Mehri and Cameron Azari in support of the Motion to Class Members under Rule 23(e)(1).

V. Schedule And Procedures For Disseminating Notice, Filing Claims, Requesting Exclusion From Class, Filing Objections To Class Action Settlement, And Filing Motion For Final Approval

Proposed Date	Court Adopted Date (if altered)	Event
10/25/2023		Class Notice Program begins
11/10/2023		Motions for Final Approval and Attorneys' Fees and Expenses filed
1/5/2024		Objection and Opt-Out Deadline
1/5/2024		Response Memoranda Regarding Motions for Final Approval and Fee/Expense Application filed
1/26/2024		Reply Memoranda in Support of Final Approval and Fee/Expense Application filed
2/2/2024		Final Approval Hearing

VI. Final Approval Hearing

9. The Final Approval Hearing shall take place on February 2, 2024, at 10:00 a.m. at the United States District Court for the Northern District of California, Phillip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, Courtroom 6, San Francisco, California 94102, before the Honorable Charles R. Breyer, to determine whether the proposed Settlement is fair, reasonable, and adequate; whether it should be finally approved by the Court; and whether the Released Claims should be dismissed with prejudice under the Settlement and the notice program.

VII. The dates and deadlines set forth in this Preliminary Approval Order, including, but not limited to, the Final Approval Hearing, may be extended by Order of the Court without further notice to Class Members, except that notice of any such extensions shall be included on the Settlement website. Class Members should check the Settlement website regularly for updates and further details regarding extensions of these deadlines. Exclusions and objections must meet the deadlines and follow the requirements set forth in the approved Notice in order to be valid.

10. Interim Class Counsel and Defendants' Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement not materially inconsistent with the Preliminary Approval Order or the Class Action Settlement, including making, without further approval of the Court, minor changes to the Settlement, the form or content of the Class Notice, or any other exhibits the Settling Parties jointly agree are reasonable or necessary.

11. The Court authorizes the Settlement Administrators, Epiq Class Action & Claims Solutions, Inc., through data aggregators or otherwise, to request, obtain, and use Class Members' information for notice purposes.

12. The Court shall maintain continuing jurisdiction over these proceedings for the benefit of the Class as defined in this Order.

IT IS SO ORDERED.

DATED: November 6, 2023


THE HONORABLE CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE